

Claims 18, 20, 21, 28 and 30 are rejected under 35 U.S.C. § 102(b) as being anticipated by Webster et al. (WO 95/03695).

However, Webster et al. (WO 95/03695) disclose a method for the preventative, protective and eradivative treatment of fungal diseases of all types using certain stilbene derivatives and metabolites of specific bacteria [see page 1, lines 1-23]. The invention of Webster et al. is directed to fungus disease control for materials and organisms mitigated by fungal organisms, i.e. for the treatment of fungal diseases of all types [see paragraph bridging pages 1 and 2].

*no
ant
block*
In contrast thereto, the present invention refers to the antimicrobial treatment of surfaces. Generally, antimicrobial treatment refers to the inactivation of bacteria. From the biological point of view bacteria are prokaryotes. In contrast thereto, fungi are eucaryotic microorganisms, as is stated on page 2, lines 30-31 in the Webster reference.

Since Webster et al. has no teachings concerning antimicrobial treatment of surfaces, the subject matter of present claims 18, 20, 21, 28 and 30 is certainly novel with respect to Webster et al. Reconsideration and withdrawal of the rejection of claims 18, 20, 21, 28 and 30 under 35 U.S.C. § 102(b) as being anticipated by Webster et al. (WO 95/03695) is therefore respectfully solicited.

Claims 18, 20-22, 25 and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ashida (JP 10-45566). This reference discloses cleaning compositions containing Yucca extracts. The compositions show an antimicrobial effect. As a natural product the composition contains a mixture of different substances such as saponin, flavone, and resveratrol. It is merely hindsight speculation to attribute the antimicrobial effects of the Yucca extracts to any particular constituent therein. *103-type argument*

The reference does not disclose the antimicrobial treatment of substrate surfaces wherein the active is one specific stilbene compound. *- Claims do not require such*

In contrast thereto, the method of the present invention refers to the antimicrobial treatment of substrate surfaces, wherein the antimicrobial is a specific active: a synthesized organic stilbene compound. *not in claim* This is not taught in the Ashida reference. Reconsideration and withdrawal of the rejection of claims 18, 20-22, 25 and 29 under 35 U.S.C. § 102(b) as being anticipated by Ashida (JP 10-45566) is therefore respectfully solicited.



Claims 18 and 20-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sheers, U.S. Patent 3,577,230. This reference discloses a process for controlling undesirable microorganisms (e.g. algae see col. 2, lines 62-63 and col. 3, lines 13-16) in natural water, swimming-pools, ornamental water installations, industrial process waters, industrial and municipal effluents and the like using a trans-stilbene compound.

The reference discloses a method of water-treatment and not a method of antimicrobial treatment of substrate surfaces. Reconsideration and withdrawal of the rejection of claims 18 and 20-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sheers, U.S. Patent 3,577,230 is, therefore respectfully solicited.

Sheers applies to a substrate carrier

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Webster et al. in view of Grier, U.S. Patent 3,678,168. As noted *supra*, Webster et al. is directed to the treatment of fungal diseases of all types. From the biological point of view bacteria are prokaryotes while fungi are eucaryotic microorganisms. Webster et al. has no teachings concerning antimicrobial treatment of surfaces. Grier, U.S. Patent 3,678,168, is directed to the treatment of fungal diseases. Since neither reference has any teachings concerning antimicrobial treatment of surfaces, the combination cannot make that suggestion.

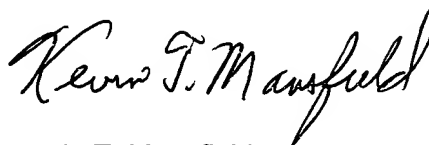
Reconsideration and withdrawal of the rejection of claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Webster et al. in view of Grier is therefore respectfully solicited.

Claims 26 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ashida. The reference discloses an antimicrobial composition which contains – according to its “natural-product-character” - various substances such as saponin, flavone, and resveratrol. It is therefore hindsight speculation to attribute the antimicrobial effects of the Yucca extracts to any particular constituent therein such as resveratrol. This reference therefore is not suggestive of an antimicrobial composition that contains as single active ingredient a specific synthesized stilbene compound.

Reconsideration and withdrawal of the rejection of claims 26 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ashida (JP 10-45566) is therefore respectfully solicited. Since there are no other grounds of objection or rejection, passage of this application to issue with claims 16-32 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Respectfully submitted,



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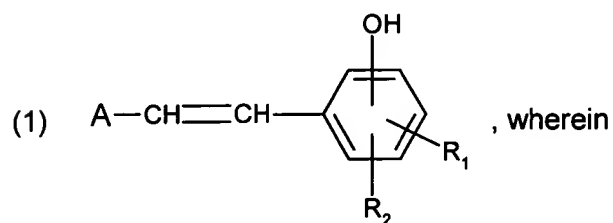
Ciba Specialty Chemicals Corporation
540 White Plains Road
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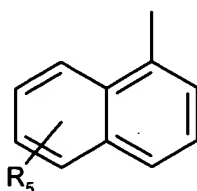
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APPENDIX: Marked up version of amended claim.

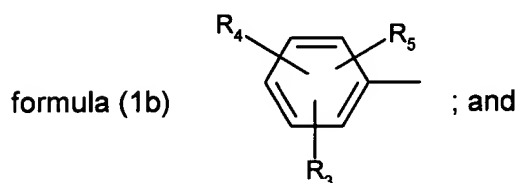
18. (amended) A method of antimicrobially treating a ~~substrate~~surface, which comprises applying thereto an antimicrobially effective amount of a hydroxystilbene compound of the formula



A is a radical of formula (1a)



; or a radical of



R_1 , R_2 , R_3 , R_4 and R_5 are each independently of the others hydrogen, halogen, hydroxy, C_1 - C_{16} alkyl, C_1 - C_{16} alkoxy, phenyl; C_1 - C_3 phenylalkyl; C_6 - C_{10} aryloxy, amino, mono- C_1 - C_5 alkylamino, di- C_1 - C_5 alkylamino, or $-NO_2$.